

June 17, 2019

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

RE: **EX PARTE PRESENTATION**  
*Misuse of Internet Protocol (IP) Captioned Telephone Service;*  
*Telecommunications Relay Services and Speech-to-Speech Services for*  
*Individuals with Hearing and Speech Disabilities*  
CG Docket Nos. 13-24, 03-123

Dear Ms. Dortch:

On June 13, 2019, Dixie Ziegler, Vice President of Hamilton Relay, Inc. (“Hamilton”), Coleman Bazelon, Brent Lutes, and Benjamin Thesing of The Brattle Group (consultants to Hamilton), Rachel Wolkowitz (outside counsel) and the undersigned counsel on behalf of Hamilton, met with Commission staff from the Consumer & Governmental Affairs Bureau (“CGB”), Office of Economics and Analytics (“OEA”), and the Office of the Managing Director (“OMD”). Commission staff present at the meeting were Diane Burstein, Eliot Greenwald, Michael Scott, Robert Aldrich, and Douglas Graebner (intern) of CGB; Virginia Metallo and Susan Lee of OEA; and David Schmidt of OMD.<sup>1</sup>

Meeting participants discussed the economic analysis in the attached slide deck.<sup>2</sup> As noted in Hamilton’s past filings, the Commission’s rules require the Telecommunications Relay Services (“TRS”) Fund Administrator to “compensate TRS providers for reasonable costs of

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<sup>1</sup> Certain participants participated by telephone.

<sup>2</sup> The attached deck is the redacted version of the slide deck. The Brattle Group attendees, all of whom have filed the Acknowledgement pursuant to the Third Protective Order in this proceeding (the “Acknowledgement”), provided Commission staff with a confidential, unredacted version of the slide deck during the meeting. Ms. Ziegler, Ms. Wolkowitz, and the undersigned have not signed the Acknowledgement, and thus did not have access to the unredacted version and did not participate in any discussion of highly confidential information under the Third Protective Order other than Hamilton confidential information.

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providing interstate TRS,” using formulas designed to accomplish that requirement.<sup>3</sup> And, as recently described by the D.C. Circuit Court of Appeals, the Commission must rely on relevant evidence when making policy decisions.<sup>4</sup> To aid the Commission’s deliberations, the slide deck presents relevant cost and revenue information in comparable industries as well as an in-depth look at Hamilton’s costs.

Hamilton urged the Commission to maintain the interim IP CTS rate of \$1.75 per minute until a permanent rate can be established, observing that a year-long \$1.58, industry-wide rate would cause market harm. Finally, The Brattle Group discussed a possible permanent rate methodology that would achieve a \$1.58 per minute average rate, but agreed to explore possible alternative approaches, such as using a model consistent with the approach used for VRS rates.<sup>5</sup> Hamilton looks forward to continuing to work with the Commission, consumers, and other stakeholders to establish, as soon as possible, a legally-sound, evidence-based permanent rate methodology that compensates IP CTS providers for their reasonable costs incurred in the provision of IP CTS, rather than the harmful \$1.58 rate that is scheduled to take effect on July 1, 2019.

This filing is made in accordance with Section 1.1206(b)(1) of the Commission’s rules, 47 C.F.R. § 1.1206(b)(1). In the event that there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/ David A. O’Connor

Counsel for Hamilton Relay, Inc.

Enclosure

cc (via email): Meeting Participants

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<sup>3</sup> Comments of Hamilton Relay, Inc., CG Docket Nos. 13-24, 03-123, at 3 (filed May 28, 2019) (quoting 47 CFR § 64.604(c)(5)(iii)(E)(1)).

<sup>4</sup> *Nat’l Lifeline Ass’n v. FCC*, 915 F.3d 19, 32 (D.C. Cir. 2019) (reversing the Commission’s 2017 *Lifeline* order because the Commission failed to examine relevant evidence when making its decision and evaluating the effect of the agency’s decision on the program’s policy goals).

<sup>5</sup> Hamilton intends to have The Brattle Group submit a follow-up research paper that expands on the ideas presented in the slide deck.

**REDACTED**

# IP CTS Costs, Revenues, and Rate Structure

PRESENTED TO

Federal Communications  
Commission

PREPARED AT THE REQUEST OF

Hamilton Relay, Inc.

PRESENTED BY

Coleman Bazelon & Brent Lutes,  
The Brattle Group

June 13, 2019

THE **Brattle** GROUP

# Disclaimer

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This presentation reflects the perspectives and opinions of the presenters and does not necessarily reflect those of The Brattle Group's clients or other consultants. However, we are grateful for the valuable contributions of many consultants of The Brattle Group. Where permission has been granted to publish excerpts of this presentation for any reason, the publication of the excerpted material must include a citation to the complete presentation, including page references.

# Agenda

- 1) Provider costs and revenues compared to industry benchmarks.
- 2) Hamilton's subcontractor costs compared to industry benchmarks.
- 3) Reported and projected IP CTS costs do not provide a clear or complete picture of true costs.
- 4) Proposed two-tiered price cap rate structure.

# Section I: Provider Costs and Revenues Compared to Non-TRS Call Center Industry Benchmarks

- Comparable (non-TRS) service providers that operate in well-functioning, unregulated markets provide a benchmark for the reasonableness of IP CTS costs and revenues.
- Such comparables include call centers as a service (“CCaaS”) providers, telephonic language interpreter service providers, and virtual receptionist/answering service providers.
- Available data indicates that IP CTS provider costs and revenues are lower than those of comparable non-TRS providers.

Company	Service Type	Revenue Per Minute	Expenses Per Minute	Operating Margins
<b>Benchmark</b>				
West Corporation	[1] CCaaS	\$2.67	\$2.11	27%
LanguageLine	[2] Telephonic Interpreter	\$3.95	\$2.77	42%
Interpreter.com	[3] Telephonic Interpreter	\$2.99	-	-
IU Group	[4] Telephonic Interpreter	\$2.20	-	-
Call Ruby	[5] Virtual Receptionist	\$2.54	-	-
Abby Connect	[6] Virtual Receptionist	\$2.18	-	-
<b>IP CTS</b>				

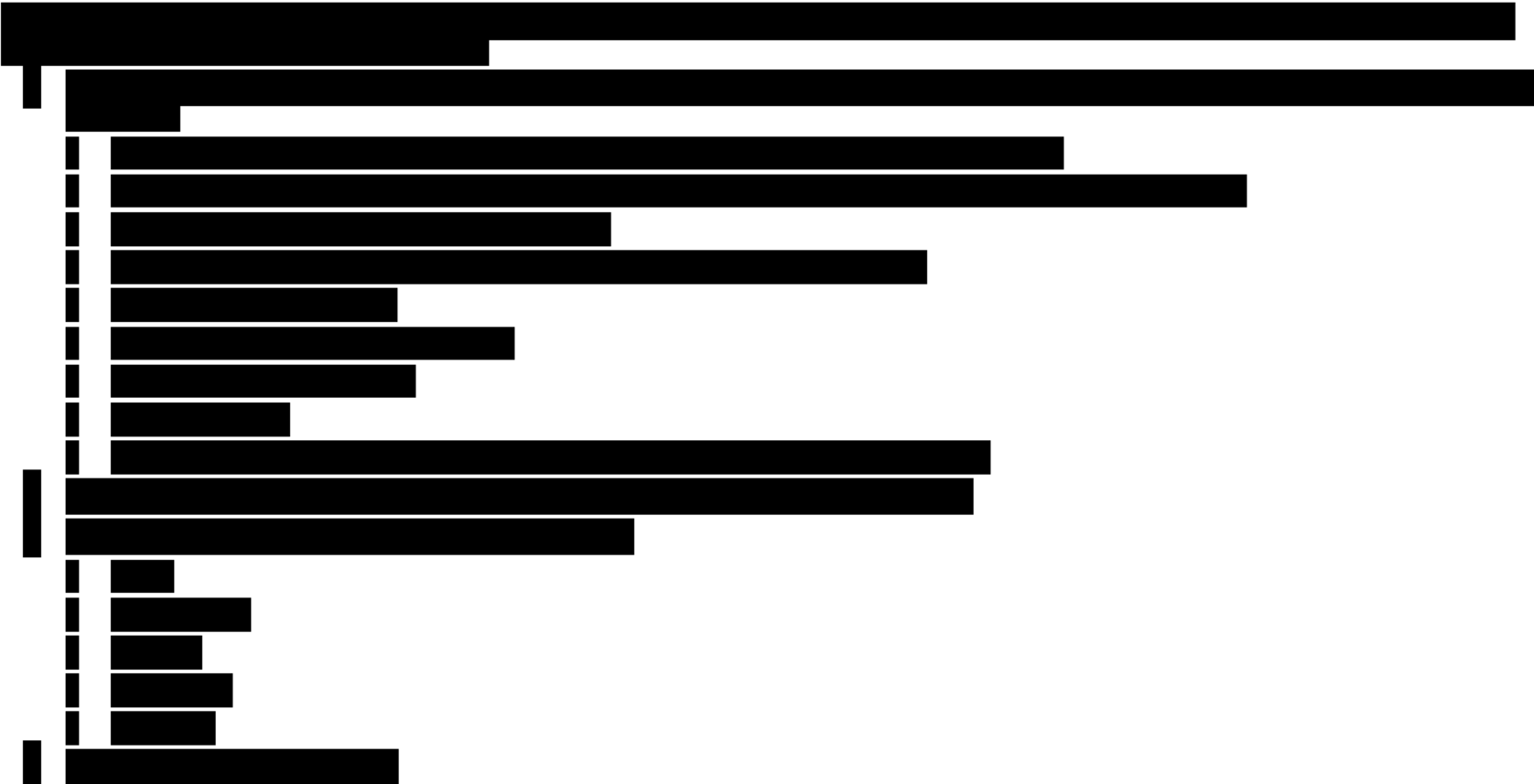
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# Section II: Hamilton's Subcontractor Costs Compared to Non-TRS Call Center Industry Benchmarks



# Hamilton Subcontractor Costs

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# Hamilton Subcontractor Costs

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# Hamilton Subcontractor Costs Compared to Industry Benchmarks

Hamilton’s subcontractor fees are consistent with industry benchmarks.

**Non-TRS Call Center Industry Benchmarks for  
Hamilton Handled CTI Calls**

Benchmarks (as Percent of Revenue)	
[1] Telecom Services	11.5%
[2] Marketing	1.9%
[3] Customer Service Expenses	1.5%
[4] Total	14.9%

**Hamilton Costs and Revenues**

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Sources:

[1] Lori Bocklund and Brian Hinton, “Cost Structure and Distribution in Today’s Contact Centers,” Strategic Contact, Inc., March 2008, p. 7, [https://www.strategiccontact.com/pdf/CC\\_Cost\\_WP.pdf](https://www.strategiccontact.com/pdf/CC_Cost_WP.pdf);

[2] Rachel Hyland, “Please Hold: Offshoring and investment in new technologies will limit long-term industry growth,” IBISWorld, November 2018, p. 21, accessed May 7, 2019, <https://www.ibisworld.com/industry-trends/market-research-reports/administration-business-support-waste-management-services/administrative/telemarketing-call-centers.html>;

[3] Kaiser Mulla-Feroze, “The Missing SaaS Metric: Customer Retention Cost,” Totango, p. 11, accessed October 5, 2017, <http://www.totango.com/customer-retention-cost-report.pdf>.

# Hamilton Subcontractor Services

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## Section II: Reported and Projected IP CTS Costs do Not Provide a Clear or Complete Picture of True Costs

# IP CTS Costs Reported to Rolka Loubé Are Under Inclusive

Costs reported to Rolka Loubé are not inclusive of full provision costs.

- Unavoidable provision costs excluded from costs reported to Rolka Loubé include:
  - Indirect overhead costs;
  - Research and development beyond that required “to meet the non-waived mandatory minimum standards;”
  - State and Federal taxes.
- Reporting such costs would be consistent with Part 32 reporting standards.
- Providers base their business decisions on a full accounting of costs, not on the subset of reported costs.
- Standard measures of operating margins include many of the costs that are excluded from costs reported to Rolka Loubé.

# IP CTS Costs Are Variable Over Time

IP CTS cost projections have a high degree of variance by provider over time.

- The fluctuating market positions of providers implied by time-varying relative cost projections:
  - Suggest a level of imprecision and inconsistency in cost reporting/projecting that is not well-suited to cost-based rates; and
  - Highlight the difficulty with constructing a tiered structure that precisely distinguishes providers’ costs.
- If reimbursement rates are to be based on projected costs, allowances should be made for projection errors.
- If a tiered structure is employed, it should only attempt to divide the market along lines that are representative of consistent and clearly distinguishable cost differences.

2018-2020 Ranked Provider Per-Minute Costs

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Provider	2019-2020		2018-2019	
	Cost Per Minute	Rank	Cost Per Minute	Rank
		1		3
		2		1
		3		2
		4		4
		5		5

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Sources and Notes: Report and Order, *In the Matter of Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, FCC, April 30, 2019, Exhibit 1-3.1; Report and Order, *In the Matter of Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, FCC, April 30, 2018, Exhibit 1-3.1.

# Weighted Average IP CTS Costs are Heavily Influenced by the Low Cost Provider

Most providers **[[BEGIN HIGHLY CONFIDENTIAL [REDACTED] END HIGHLY CONFIDENTIAL]]** have projected costs per minute above the industry weighted average for 2019 – 2020.



Source: Report and Order, *In the Matter of Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, FCC, April 30, 2019, Exhibit 1-3.1



## Section IV: Proposed Two-Tiered Price Cap Style Rate Structure

# Two-Tiered Structure is Most Appropriate Tiered Structure for IP CTS

Only two groups of providers can be clearly identified as having meaningfully different costs. This implies that if a tiered structure is to be implemented, a two-tiered structure is most appropriate.

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**Projected 2019-2020 IP CTS Provider Average Monthly Minutes  
and Per-Minute Costs with a 10% Margin of Error**



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# Proposed Two-Tiered Rate Structure for IP CTS

## Proposed Tiered Structure:

- Providers with fewer than 15 million minutes per month will initially be compensated at a tier 1 rate of \$1.76 per minute for all minutes provided.
- Providers with more than 15 million minutes per month will initially be reimbursed at a tier 2 rate of \$1.40 per minute for all minutes provided, with a minimum compensation equal to the maximum a provider could earn if it chose to remain in tier 1.<sup>†</sup>
- Rates in each tier will be subject to a price cap-style mechanism whereby the base rate will be adjusted to reflect inflation (as measured by the GDPPI) and an X-factor reflecting expected efficiency gains of 0.9% per year.

<sup>†</sup> It is necessary to implement a minimum in order to avoid causing a reduction in total revenue for providers that only marginally cross the 15 million monthly minutes threshold.

# Average Reimbursement Rates Under Proposed Rate Structure

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## Effective Rates For Each Provider Under Proposed Tiered Structure

	Projected Annual Minutes	Average Rate With Proposed Structure
Total	584,367,465	\$1.58

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# Parameters of the Tiered Rate Structure

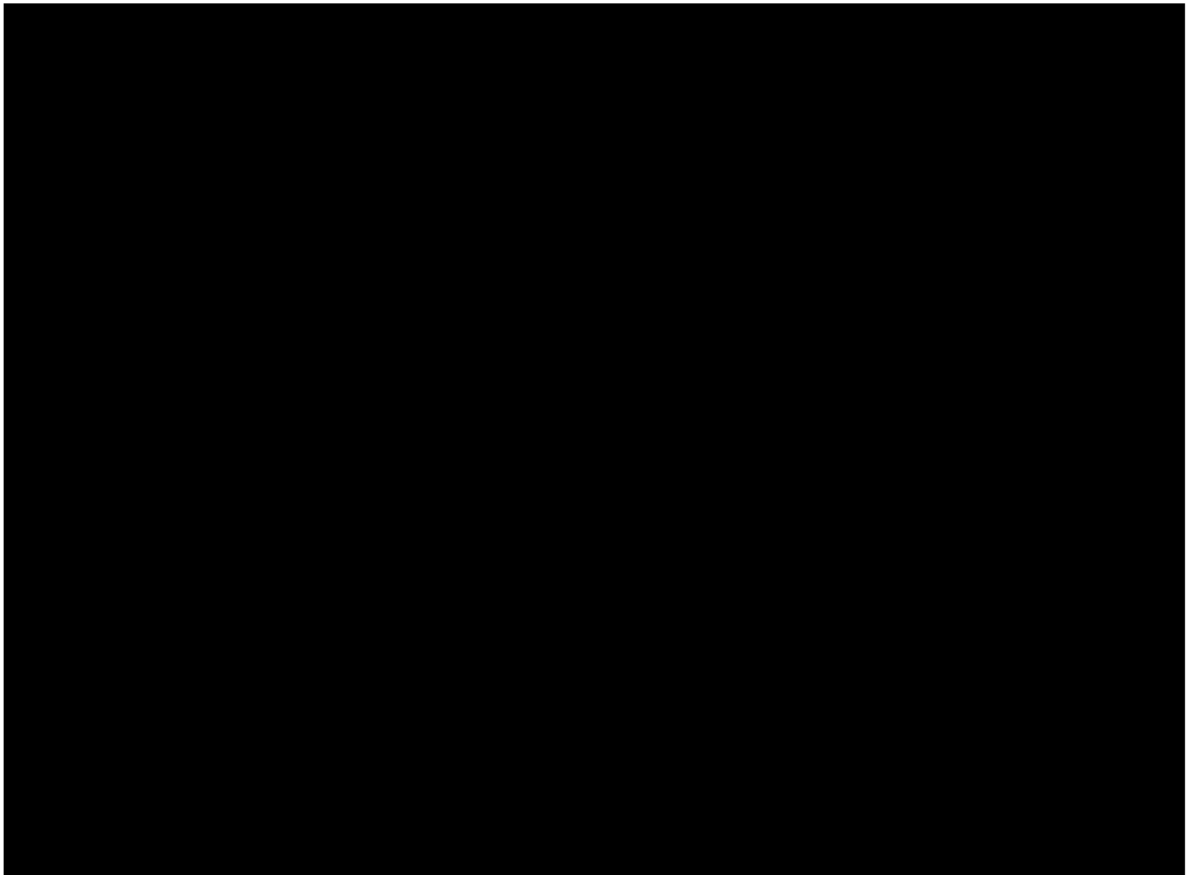
The specific parameters of the proposal are selected to reach a target average reimbursement rate of \$1.58 per minute based on projected demand, with several other criteria in mind.

- The tier 1 rate of \$1.76 is selected to mitigate the risk associated with reported and projected costs; it also represents the last uncontested MARS rate and hence has a competitive market foundation.
- The cutoff point of 15 million minutes is selected to allow smaller providers room for growth before entering the second tier and experiencing a reduction in marginal revenue (the largest tier 1 provider can grow by about **[[BEGIN HIGHLY CONFIDENTIAL ██████████ END HIGHLY CONFIDENTIAL]]** before entering tier 2). This is essential to ensure competition between providers.
- The tier 2 rate of \$1.40 was selected to achieve an initial industry average rate of \$1.58 while imposing minimal short term change in revenue for tier 2 providers. Note, the tier 2 rate can be adjusted to achieve a lower industry average reimbursement rate as illustrated in the following figure.

# Average Reimbursement Rates As a Function of Tier 2 Rates

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Industry Weighted Average Rate as a Function of the Tier 2 Rate Level



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# Price Cap-Style Mechanism

## Price cap parameters:

- X-factor = 0.9%. Based on observed reductions in reported and projected IP CTS costs (see calculation on next page).
- Inflation factor = GDPPI.
- Recalibration period = every four years.
- Note, tier-specific X-factors can be calculated if additional data becomes available.

# Basis for X-Factor

## Calculation of Proposed X-Factor

Year	Total Per-Minute Cost	% Change
	[A]	[B]
[1] 2017	\$ 1.4071	
[2] 2018	\$ 1.3579	-3.4956%
[3] 2019E	\$ 1.3772	1.4220%
[4] 2020E	\$ 1.3684	-0.6425%
Average Annual Cost Efficiency Gain		
[5] 2017-2020E	\$ 0.0129	0.9%

Sources & Notes:

[A][1]-[A][4]: Inflation-adjusted total per-minute IP CTS costs in 2019 dollars using GDPPI. See U.S. Bureau of Economic Analysis, "Gross Domestic Product: Chain-type Price Index [GDPCTPI]," FRED, Federal Reserve Bank of St. Louis, updated April 26, 2019, <https://fred.stlouisfed.org/series/GDPCTPI>; Blue Chip Economic Indicators, April 10, 2019, p. 3. Note GDPPI data are from January 1 of each year and 2020 data are 2019 consensus projections.

[A][5]:  $([A][1] - [A][4]) / (2020 - 2017)$ .

[B][2]-[B][4]: Annual percent change in Total Per-Minute Cost.

[B][5]:  $1 - ((1 + [B][2]) * (1 + [B][3]) * (1 + [B][4]))^{(1/3)}$



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